

SS-8 Determination—Determination for Public Inspection

Occupation 02OFF.190 Receptionist	Determination: <input checked="" type="checkbox"/> Employee <input type="checkbox"/> Contractor
UILC	Third Party Communication: <input checked="" type="checkbox"/> None <input type="checkbox"/> Yes

Facts of Case

According to the information and documentation submitted, the firm's business is a hair salon. The worker was engaged as a receptionist. The worker answered phones, set appointments, did laundry, folded towels, and did monthly data entry. The worker's earnings were reported on Form 1099-MISC at year end.

The firm showed the worker how to use [REDACTED] and the worker provided monthly [REDACTED] reports. The firm provided the worker with her assignments and determined the methods by which the assignments were performed. If any problems or complaints arose, the worker contacted the firm for their resolution. The worker personally performed her services at the firm's premises. The firm provided all necessary office equipment and supplies, such as phones, paper, pens, for the worker to perform her services. The worker was paid an hourly wage for her services. The worker had no investment in facilities. Both parties could terminate the services without incurring any liabilities.

Analysis

According to the information and documentation submitted concerning the work relationship, the firm provided the worker with training. The firm provided the worker with her assignments and determined the methods by which the assignments were performed. The worker was required to submit monthly reports. The worker personally performed her services at the firm's premises. The firm provided all necessary office equipment and supplies for the worker to perform her services. The firm paid the worker an hourly wage for her services. The worker had no investment in facilities and did not have the opportunity for profit or loss. Both parties could terminate the services without incurring any liabilities.

Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner. This is true even if the training was only given once at the beginning of the work relationship. See Rev. Rul. 70-630, 1970-2 C.B. 229.

The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. See Rev. Rul. 71-524, 1971-2 C.B. 346.

Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. In such instances, the firm assumes the hazard that the services of the worker will be proportionate to the regular payments. This action warrants the assumption that, to protect its investment, the firm has the right to direct and control the performance of the workers. Also, workers are assumed to be employees if they are guaranteed a minimum salary or are given a drawing account of a specified amount that need not be repaid when it exceeds earnings. See Rev. Rul. 74-389, 1974-2 C.B. 330.

Therefore, the firm exercised direction and control over the services performed by the worker to establish that an employee/employer relationship existed.